

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JOHN TEBEAU,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:11CR0528 (CDP)
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

GOVERNMENTS NOTICE TO COURT

COMES NOW the United States of America, by and through its attorneys Richard G. Callahan, United States Attorney for the Eastern District of Missouri, and Allison H. Behrens, Assistant United States Attorney for said District, and provides this notice to the Court:

1. Defendant filed a motion with the Eighth Circuit Court of Appeals for leave to file a successive habeas petition pursuant to 26 U.S.C. § 2255. It was based upon the recent Supreme Court decision *Johnson v. United States*, 135 S.Ct. 2551 (2015). The Government did not oppose Defendant's motion because the Government agreed that, under *Johnson*, Defendant no longer had the requisite predicate violent felonies to qualify him as an Armed Career Criminal under 18 U.S.C. § 924(e). The Eighth Circuit granted Defendant's motion. Thereafter, Defendant filed a motion for post-conviction relief before this Court, again arguing for relief under *Johnson*.

2. Thereafter, the Supreme Court granted certiorari in the case *Welch v. United States*, No. 15-6418, 2016 WL 90694 (cert. granted Jan. 8, 2016). The issue in *Welch* was whether *Johnson* applies retroactively on collateral review. If the Supreme Court ruled that *Johnson* should apply retroactively, then Defendant should be resentenced. If, however, the Supreme Court ruled otherwise, then Defendant would not be entitled to relief under *Johnson*.

3. As a result of the pending Supreme Court case, the Government filed a motion to stay proceedings pending the resolution of that case. This Court granted that motion on March 17, 2016. In the Court's order, the Court directed the Government to notify the Court when the Supreme Court ruled upon *Welch* and, therefore, this case was ready to proceed.

4. The Supreme Court has issued its ruling in *Welch*, concluding that the principles enunciated in *Johnson* are, indeed, retroactive. Therefore, this case is ready to proceed.

WHEREFORE, the Government respectfully requests that this Court lift the stay of the instant proceedings.

Respectfully submitted,

RICHARD G. CALLAHAN
United States Attorney

s/ Allison H. Behrens

Allison H. Behrens, #38482MO
Assistant United States Attorney
111 South 10th Street
St. Louis, Missouri 63102
(314) 539-2200

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above and foregoing was served upon all counsel of record pursuant to this Court's electronic notification system this 11th day of May, 2016.

s/ Allison H. Behrens

ALLISON H. BEHRENS, #38482MO